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THE INTEGRITY OF AMERICAN LIFE AND AMERICAN LAW.

ONE of the remarkable facts in our history is that since the establishment of the Republic the fundamental changes in our institutions, both those accomplished and those attempted, have been the result of war. Up to the Civil War we were a Federal Republic—a Union of States, with the Federal government sovereign as to Federal affairs but with the State governments no less sovereign as to State affairs. The Republic rested on the States. They constituted it, and its life was their life. Their duty was to support and maintain it in the full integrity of its constitutional powers. Its duty was to safeguard and protect them in all their rights as independent commonwealths. As a nation we had, true, all the high powers possessed by other nations, but except as conferred expressly by the Constitution upon the Federal government those powers reposed in the States and the people of the States. The powers of the people only were original. The powers of the Federal government were derivative. It was recognized as a government of limited, of enumerated powers, and those not so enumerated, it was equally recognized, were reserved, to remain in their original repository—the States or the people.

These were the undisputed concepts of the founders of the Republic, and they endured as the common concepts of the people until the Civil War. But that war impaired all of them if it did not destroy some of them. With the South prostrate and defenseless at its close, the same powerful faction at the North which had incited it quickly sought to give it the character of a

war of conquest and to consummate its cruelties by the spoliation and dismemberment of the Southern States, notwithstanding the Northern pretense for the war was the preservation of the Union, which, if truly the purpose, could only mean the preservation of all the constituents of the Union. This ruthless attempt drew from a Southern statesman the withering retort: "If it was treason to separate these States, it is treason to destroy them." It drew from the Supreme Court, in *Texas v. White*, the declaration that "the Constitution, in all of its provisions, looks to an indestructible Union, composed of indestructible States."

One of the notable things about the Constitution is that the term "United States" is used only in the plural number. Treason against the United States is defined in Section 3 of Article 3 as consisting only in levying war against "them". In the Thirteenth Amendment, the jurisdiction of the United States is referred to as "their" jurisdiction. Only after the Civil War did the term lose its plural significance. Until then the official utterances of the government were in the language of the Constitution. It was the United States "are". Since then, it has been the United States "is".

The outstanding result of the Civil War was the setting in motion of that powerful influence for the complete federalization of all the governmental powers of the land, which has so constantly gained in strength that its almost unchallenged sway now threatens the absorption of all the powers of the States, and with it, the destruction of local self-government, through all Anglo-Saxon history the bulwark of the people's liberties, and whose surrender can only mark both the decay of national character and the subversion of individual and national freedom.

The aftermath of the Civil War was the attempted and well-nigh accomplished centralization of governmental power. The aftermath of the European War, we find to our dismay, is the attempted socialization of the individual citizen.

If the philosophic historian, Lecky, wrote, nearly twenty years ago, that we were living in a period of "Tudor regulation of industry and almost Oriental exaggeration of the powers of the State," what would he say now of the increased tendency of

this time toward the subjection of all men to petty State servitude and paternalism and all industry to complex State regulation and control?

Against this creeping, threatening thralldom the American spirit, to my mind, cries out in indignant and defiant protest. The specious and subtle doctrines by which it is sought to lure us to this deadly embrace are of foreign birth. They tempted and seduced the ancient nations, and through them great peoples sickened and died. They are alien to every American tradition. They mock the sacrifice, the heroism, in which the American Republic was founded, and the hard and honest toil by which it has been builded to its present splendid proportions. They are an assault upon the integrity of American life and American law, and imperil the freedom that American life and American law represent, and for the happiness and repose of the world must continue to represent to generations yet unborn.

It can never be too forcibly impressed, as many writers, notably James Bryce, have emphasized, that it was the kindred philosophies of Greece that finally broke the enervated Roman spirit, that made it cosmopolitan, as these doctrines are seeking to make us, and that eventually destroyed the native conservatism of Roman law. From them issued the political forces which culminated in the autocracy of the Empire, the usurpation by the Roman Senate of the legislative powers of the Popular Assembly, and in turn its surrender to the ruler of the entire law-making authority.

There is nothing more vital in this world than human rights. They alone express the freedom of human life, without which life is a dreary waste. The genius of Anglo-Saxon institutions is their recognition of those rights and their establishment upon the impregnable basis of fundamental law. Because of this it is that Anglo-Saxon institutions are the finest product of all the ages.

They represent mankind's highest wisdom and its noblest passions. All the tragedy and pathos of human struggle are comprehended in their growth. They signify the long and toilsome ascent from rude and primitive conditions, and the final conquest of the broad and fruitful plain of enlightenment and

security. They are eloquent with hope, with aspiration, with the persevering faith which is not baffled and the sturdy courage which is not subdued. In their study we are reminded always of the bitter and unequal contest by which their establishment was effected. Through them we learn afresh the lessons of heroism and the measure of sacrifice and devotion which martyrs have paid for human freedom. In their contemplation we are brought into touch with those iron forces which produced the crucible of great events, and catch something of that unconquerable spirit that sustains brave men in extreme crises and through fiery ordeals for love of country and in defense of right. They embody the whole experience of a great race, worked out under the silent judgments of time and fashioned into its substantial results. They typify its common standards, its popular ideals. They constitute the sum of its unwearied effort, the hard-earned triumphs of its career, enriched with tradition, seasoned with trial, and consecrated to the ennoblement of national life.

Through them were first gained the right of mankind to live its life under conditions of equality and in the possession of happiness, and its privilege to work out its own destiny and be secure in the fruits of its toil. Through them were first made secure the liberty of lawful pursuit, the right of individual conscience, the right of private property, and freedom in all things that give usefulness and contentment to human life and fill its days with high impulse and earnest purpose. They have been, always, the barriers against despotism, but only in the interest of a common obedience to the law of the land. They have been, always, the protection of inalienable rights, but equally the security of established government. In contrast with the rapacity, the cruelties and the tyrannies of the ancient world, across more than seven centuries they have proclaimed the inviolability of person and of property and, above all, the supremacy of the law. Like a lone rock amidst an all-pervading sea, they stand to-day in a restless and chaotic world still the unshaken base of government by law and the unfailing refuge of human liberty.

They are the prime sources of American character. They are

the fountains of American law. And in their integrity the life of both is bound up.

When upon their foundation this Republic under the providence of God was builded, the world-old aspiration of men for a free government was realized, and the infant Republic became consecrated with all the long and weary struggle for its attainment. In other lands, through those dark periods stained by bigotry and persecution, the violence and excesses of arbitrary rule, in loathsome dungeon cell and on bloody gibbet the martyr patriots of the earth had perished, sustained by the hope, the dream, that some day, somewhere, a republic like this might be raised up to bless mankind with its freedom. In its creation it answered their holy prayers, and their spirits laid their benediction upon it and pledged it to its high mission upon the earth.

It was conceived in a noble passion for liberty. It was builded upon heroic devotion. It was intended only for freemen. Through them and by them must it live. The snows of a Valley Forge stained with the blood from the bare feet of the ragged Continentals emblemize the hard travail of its birth. The tragedy of an Appomattox epitomizes something of the trial of its career. A Washington, a Jefferson, a Franklin and a Madison typify the patriotism that burned in the breasts of the men who founded it. A Robert E. Lee and a Stonewall Jackson glorify the courage of those gray legions who, true to the chivalry of their land, were willing to suffer and die to preserve the rights of its States, and, through those rights, the integrity of its organic law. The guaranties of its Bill of Rights symbolize the freedom of its people as the great aim of its creation. A peaceful land, the orderly administration of its functions, reflect the wisdom of its plan. Its heroic past, its splendid history, its inspiring legends, the sturdy, strong, on-sweeping current of its life, the very environment which nature has placed about it, all reveal its dedication to a high use and a great end—the high use of affording a stable, simple and economical government to an independent and stalwart people as under God's direction it works out its destiny, and the great end of preserving liberty through the law and maintaining the unchal-

lenged reign of law because devoted to the protection of liberty. It is a government sprung from the very character of this people. It represents their ideas. It is adapted to their modes of life, their notions of public authority and individual right, their matters of private concern and the forms of their industry and pursuit. It has endured up to this time through more than a hundred years of glorious history, and under its operation we have advanced in all the essentials of a people's progress to the foremost place among the nations of the earth. Surely, then, we ought to respect it, revere it and love it; and above all, we ought to preserve it, not merely in its name and form, but in the substance of its character and the integrity of its life and its powers. It survived a four year civil war; it saved the world from the domination of a barbarous and despotic European power; and our duty is to see that the busy doctrinaires of this time do not subvert it by lessening the public vigilance for its liberties and substituting for its great principles the artful policies of the Caesars.

The life of a nation lies in the integrity of the ideas which it represents. It falls into the slumber that knows no waking once its character is gone. The influence of national ideas infallibly proclaims itself in the characteristics of the people. The types of a nation's manhood best express a nation's principles. To the wholesomeness of American ideas and their unconscious influence in the building of character, we owe the simplicity, the sturdiness and independence of American life. The oak is an oak only because it was the seed of an oak that was planted. The oak spreads its roots deep and wide and grows and towers in stately strength only while the free winds play among its branches and the unhindered sunshine settles upon its head. So it is with character. A great character, a great people, can be produced and will thrive only in the open air of freedom and when rooted in virtue, in courage and manliness. Here lies the strength of American life. Here lies the security of the traits of American character.

To preserve that life and character we must preserve these elements which alone produced it. To keep this land fundamentally American we must maintain the American belief in

the honor and dignity of plain, honest work; the American scorn for the man who would have or would seek a special privilege at the hands of the government, or who would in any way prostitute its powers which exist for all the people to the selfish advantage of his so-called class; the American contempt for that base spirit which envies another man's success or covets another man's property, or which would seek to rob him of it either by private force or by public confiscation through extortionate and unjust taxation; the American respect for law and government by law—not men; and, above all, the American love of justice, equal and exact to all men, the rich and the poor, the high and the low, each and all alike.

What finer duty can we render the nation than to be a people such as made that simpler, elder time in its life, despite its hard condition, its want of every convenience and its lack of every modern advantage, an epoch of unrivaled action in all that expressed the duties of true men and of unsurpassed thought in all that comprehended the rights of free men? They were a people who never hesitated to challenge power in any quarter whenever it became arbitrary or oppressive; who spurned as unworthy the favor of a statute as a means of advantage in private pursuit; too self-reliant to lean in servile dependence upon the bounty of the government, and too free to acknowledge that they were the mere wards of the State; a people who were the support of the government, rather than the subjects of either its succor or its power. They stood in need of but few laws, and therefore were entitled to demand and to have a simple and an economical government. They were wise enough to know that the test of a just government is the equality of all men before the law, and that therefore, in its very nature, this government could not be a paternal institution. They were a people who neither sought nor recognized any class distinctions, because unwilling that any class in this land should profit at the expense or suffer at the hands of any other class, and because they knew that no class government can be a free government. Their common trait was plain living. They were frugal, industrious, tolerant, earnest and sincere, "invincible alike to evil fortune and good fortune", not unused nor unsuited to the wholesome

pleasures of the world, but to whom its vanities did not appeal and whom its follies could not corrupt. They were the hardy pioneers who fashioned the Thirteen Colonies and later carried American civilization to the western edge of the continent, who experienced the grim contest with the wilderness, the hard condition of the pioneer home and the perils of life on the frontier. They were the builders of the nation, the guardians of what Webster called its "fire-side rights", and they gave the nation its typical character.

But in many quarters we are losing the simplicity of American life, and with it, its strength and robustness. The ideas, the notions, which the Fathers set up, by which they lived and which they wrought into the structure of the Republic, are by many regarded as provincial and hence wholly unsuited to this day. Aforetime, it was enough to be an American citizen. But now, it is said we are become "citizens of the world", and must cast away as obsolete not only the fundamentals of American life, but the fundamentals of American law. It is a day of "new thought" in politics, in law, in the humanities and in religion. Things that are old, however tested by experience, are outgrown; and things that are established, whatever their proven service, are wrong. Wealth is the common aspiration, rather than usefulness and renown; and luxury is to be more prized than refinement. We have well-nigh reached the state of which Cato warned his countrymen—"when they paid more for cooks than for horses". The industrial life of the land is coming to be largely appropriated by huge corporations. The small dealer is finding his lot harder and harder. The opportunity of the individual is being constantly narrowed. His rights are being more and more restricted. He is disappearing as the unit and base of things. His liberties, it is proclaimed, must yield to "the welfare of society". If Patrick Henry were now to appear and utter his immortal declaration, "Give me liberty or give me death", he would be blandly told by some social reformer that there had been substituted for it the doctrine of "I am my brother's keeper", with the self-imposed authority to regulate him and control him in his private affairs as the keeper sees fit. A common citizenship is apparently a thing of the past. Classes,

each concerned for its own interest and pressing for its own advantage, and maintaining large lobbies at the National and State Capitals for the promotion of class legislation, are the familiar order of the day. The protection of the rights of minorities is waning as a distinctive feature of the American system. Their appeals are silenced by an unheeding majority rule. The nationalization of all industry is becoming an insistent demand. The justice of the written law, with its humanity, security and certainty, it is constantly urged, must give way to the vague, undefined maudlinism called "social justice". Democracy is heralded not as equality before the law, but as equality of ownership of other people's property, regardless of the industry which produced it and the right of all men to the rewards of their labors. And to be an infidel in religion and a socialist in politics is deemed by many an evidence of broader mentality, a higher order of intelligence and a distinctive indication of progressive thought.

The more serious feature of these tendencies is their gradual invasion of American law. Under the specious guise of the social welfare they are undermining the fundamental doctrines of American Constitutions. This development is witnessed in the various schemes for the dispensation of government aid and favor to certain classes—forms of governmental bounty denied to other classes. This has gone so far in one instance as the establishment of a fiscal agency of the National government for the special benefit of a certain class of the population. It is further seen in legislative dictation of the number of hours a man may work and the amount of wages he shall receive for his work; in varied regulations of the uses to which he may put his property,—uses in themselves lawful and injurious to nobody, and heretofore for that reason held exempt from governmental interference; in eugenic laws seeking to reduce marriage to a matter of physical qualification; and in laws for the establishment of censorships of different kinds. The legislature of one State has enacted a law making an employer engaged in ordinary occupations but which it has classed as hazardous, liable for any injury incurred by an employee in the course of his employment in any amount a jury may choose to assess, although the em-

ployer is wholly blameless for the injury and may have taken every possible precaution to avert it. Such a law changes the fundamental theory of morals as well as law. It is the very essence of right itself, of all law both civil and criminal, that no man shall be punished unless guilty of a wrong, and that one who is free from fault shall be free from liability. In what may be regarded as the most far-reaching decision in its entire history, the Supreme Court of the United States has recently declared that this law infringed no constitutional guaranty, but only over the protest of the Chief Justice and three Associate Justices.¹ With all deference to that great court, the decision will not stand the test of the basic principles of constitutional law. It is opposed to natural justice. The hope is indulged that the court will overturn it.

More than anywhere else this process is seen in the radical extension of the police power. All the powers of government are subject to the Constitution. The police power is not above it. But in some instances it is practically being put above it. Courts have wisely and properly refused in advance to circumscribe the limits of the power. Many modern conditions justly call for its exercise. If, however, a legislature's declaration that a given subject demands the exertion of the police power operates to foreclose the question, regardless of the reasonableness of the law, in John Marshall's language, "to what purpose are limitations committed to writing, if those limits may at any time be passed by those intended to be restrained?" The plea for these extreme regulations is always the public necessity. They are necessary, it is said, for the efficient exercise of the powers of government. Those who make this plea forget that under the American system efficiency is not the test of governmental power. The test is whether its exercise transcends constitutional limitations imposed expressly for the protection of individual rights. The preservation of those rights is as much the concern of the Constitution as efficiency in the government. Their preservation is, indeed, the very justification of government. To that great end have the powers of government been

¹ *Arizona Employers' Liability Cases*, 250 U. S. 400.

granted, and government falsifies its purpose if it does not protect them. It redeems its purpose only when it does protect them. The Supreme Court, years ago, answered the plea of necessity in this memorable passage, which should remain the answer for all time: "If this were true it could be well said that a country preserved with the sacrifice of the cardinal principles of liberty is not worth the cost of preserving."

One of the Justices of the Supreme Court has in recent years declared that the police power may be exercised in aid of whatever is held by "strong and preponderant opinion to be greatly and immediately necessary to the public welfare."² Under this rule, the test of constitutional power is merely a question of popular majority. If governmental powers are subject to no restraint but a popular vote, why have our Constitutions been written? According to this rule, if in the mere judgment of the legislature public opinion preponderates in favor of everybody's going to bed at four o'clock in the afternoon as essential to the public welfare; or for the surrender of all private property to the State; or for the abolishment of all public pleasures, it is competent for the legislature to enact laws which so declare.

Encouraged by such sweeping definitions, the police power is assuming all the amplitude of unrestrained authority which the Stuart Kings claimed for their prerogative. The plea put forward in every extreme case for its exercise is the same by which the ingenuity of Bacon vainly attempted to justify the arbitrary measures of James the First. The heavy increase of taxation by which the country is burdened is in a large measure due to this extension of governmental power. With the activities of the government spread far and wide there results always the creation of new offices which in turn pile up the government expense. The number of expensive commissions now in office, in addition to the usual executive officers, for the administration of laws enacted under the police power and which are daily increasing would appall the country if it took note of them.

The police power's omnivorous swallowing up of individual rights bids fair to continue until the people awaken, as some day

² Noble State Bank *v.* Haskell, 219 S. E. 111.

they will, "like a strong man from his sleep", and in resistance strike again that

"—single note
From that deep chord which Hampden smote."

There is a story somewhere which tells of the visit of a school inspector to a village school in England. A class was asked to write what they knew about Lord Nelson. One of the small boys closed his essay with this statement: "And his last words were, '*Every man expects England to do his duty.*'"

The current paternalism is fast substituting this conception for those robust notions of the independence, the stalwartness and the initiative of the American citizen—those things which have made him the strong, splendid figure that he is, and which we have counted among the chief glories of the nation. If the State continues to usurp and absorb his activities, limit his opportunities, circumscribe his rights, all the while adding to his burdens by increased taxation whereby it may enlarge its operations, it can only be expected that the tragic confiscation will result in his abandonment of all individual duties and his ready transfer of them to the State.

All of these tendencies are a menace and a challenge of the basic things in American life and the fundamental doctrines of American law. They are the precursors of trouble. They partake of, if they do not actually express, the ruthlessness of arbitrary rule, a thing to which this race of people has never submitted. They are the forerunners of bitter contest. If we are wise and truly concerned for the safety of American institutions, we will arrest them before it is too late.

Let the soundness of these proposals be briefly put to the test of reason and authority.

The law of God deals with man as a responsible being. It has wisely and justly put upon him, as the best monitor of his conduct, the finest discipline of his passions, and as the constant reminder of his obligation to his Creator,—individual responsibility. The Ten Commandments are not addressed to society—to humanity in the aggregate. They are all in the singular number and are addressed to the individual man. They recog-

nize him as the unit of society, and impose upon him by divine law individual responsibility for the manner of his life. The necessary correlative of individual responsibility is individual right. Only through the possession of the right can the individual be held to the responsibility.

The reason that there was no Bill of Rights in the original Constitution is that since the government created by the Constitution was one of only specified powers, no limitation upon those powers was deemed necessary. Hamilton argued, "Why declare that things shall not be done which there is no power to do?" But the argument did not suffice. One of the profound facts in our history is that the people immediately demanded the Bill of Rights, against the judgment of the Constitutional Convention, to remove all doubt in the future as to the security of their liberties. The scope and design of every one of those immortal articles is to preserve the rights of the individual man. They express the maxim that "Man is too feeble to wield unlimited authority, and too strong to submit to it." If those rights be denied either the lowliest in the land or the most exalted, then, as a distinguished author has put it, "our government has lost its mission and sooner or later must tumble into chaos." Those rights are the chief care of our very justice. Public justice is worthy of public trust only through the security it affords for private right.

The protection of the rights of minorities is the imperative duty of a free government. A right is something inviolate. Its possession and exercise cannot be made a matter of votes. Majority rule unrestrained by constitutional limitations can be as tyrannical as the worst despotism. A government which does not protect the rights of minorities, even those of the humblest man within it, is not a government of all the people. It is a government of only a part of the people.

In a government which boasts of being one of equal laws, the bestowal of any form of privilege is inexcusable. What right has a government to tax all the people for the benefit of a special class in order that it may enjoy the favors of government denied to other classes no less worthy. What right has it to furnish at public expense the means of livelihood to some and with-

hold similar dispensation from others just as deserving? In all these utopian schemes for reducing men to servile dependence upon the government instead of their own industry and thrift, and which make largesse of the sacred trust of taxation, the attempt is being boldly made to put us under the bondage of Socialism.

The idea of Seisin—possession and ownership, lies at the root of the whole English and American law of property. Says Sir Frederick Pollock: "Actual enjoyment and control of land or goods, the recognition of peaceable enjoyment and control as deserving the protection of the law, the defense of them against usurpation, and, at need, restitution by the power of the State for the person who has been deprived of them by unauthorized force:—these are the points that stand at the forefront of the Common Law when we take it as presented by its own history and in its native authorities." Blackstone declared: "The absolute right inherent in every Englishman is that of property, which consists in the free enjoyment and disposal of all his acquisitions without any control or diminution, save only by the law of the land."

There can be no just or lawful governmental power to enrich the citizen, or to create unequal privileges in his favor or to his prejudice, or to shackle his lawful right to contract, or abridge his liberty to labor as he sees fit for his self-advancement. David Hume declared that Adam Smith's *Wealth of Nations* was the most valuable production of the human mind. Touching the right of every man to control his own labor and the utter want of any authority in government to control it, the great Scotch philosopher said this: "The property which every man has in his labor, as it is the original foundation of all other property, so it is the most sacred and inviolate. The patrimony of the poor man lies in the strength and dexterity of his hands, and to hinder him from employing this strength and dexterity in what manner he thinks proper, without injury to his neighbor, is a plain violation of the most sacred right of property."

The War between the States overruled one of the doctrines of John C. Calhoun, but for clear grasp and understanding of the fundamental truths which underlie our government and upon

which its safety and maintenance depend, he has never been surpassed by any American statesman. Among all its cherished possessions the South has no more precious legacy than the illustrious life and noble lessons of the great South Carolinian. In tribute to his master mind Sergeant S. Prentiss said: "He commands our confidence by his very fears, and like the needle he trembles into place." With the vision of the seer he foresaw the perils to the country which class interests and class contests now threaten. A part of his political philosophy was to make provision against the time he foretold which is now upon us, when from the rise and influence of class spirit the different portions of society would require protection from the injustice of each other.

It was in repudiation of all these socialistic notions that the idea of the personal rights of the citizen was born. In the resurrection and revival of those rights and the faithful administration of a system of law and justice which truly illustrates them, therefore, may the cure for these ills best be found.

Anglo-Saxon law and Anglo-Saxon justice have done more to enlighten the world, more to lift the common man from a former state of vassalage and gloom and make him secure in his rightful place in the world, than all the other forces of civilization combined.

Whence comes this mighty, pervading character which has been the animating spirit of that law and justice through more than seven centuries, leading them through and out of crude and cumbrous forms, the fictions and complexities of Mediaevalism, onward and upward into the light of a perfected and noble jurisprudence which stands in the modern world as mankind's best promise for security and for order?

It comes from the only source whence it could come and be permeated through, as it is, with the spirit of freedom—the English Common Law.

True, there is a philosophic breadth and elegance in even the ancient sources of the Roman jurisprudence to which the Common Law has never attained. It has known many crudities and dogmas in its time. But the outstanding distinction between the two systems is that the tendencies of Roman jurisprudence

were toward despotism, while those of the Common Law, even in the Middle Ages, were for individual liberty.

That which has chiefly moulded the character of Anglo-Saxon law and justice has been simply the Common Law's conception of the personal rights of the citizen. Magna Charta but carried it into the words of a parchment.

That concept dealt with the citizen even in that ancient time, as it does now, not merely as the unit, but as the very basis of society, possessing rights, not bestowed, but inherent, and therefore capable of assertion and being made effective not only against other men but against all men, and hence against the State itself, and whose observance by the State should be the condition of the very existence of the government of the State.

What a product of principles and institutions has that idea yielded as the stream of time has borne it on through the centuries! From it sprang the idea of a government of delegated and limited powers, powers, not absolute, but held in trust and but to safeguard the rights of the people. From it sprang the idea of the sovereignty, not of monarchs or nobles or prelates, but of the people in their original right as freemen. From it sprang the idea that there can exist no power of government save those which have the people's consent. From it sprang the idea of a government of balanced powers, each independent and inviolable. To it we owe the writ of habeas corpus. To it we owe the institution of jury trial—that to insure the proper protection of his liberties no man may be tried except by his peers. And, finally, to it we owe all our Bills of Rights, the first of which upon this continent was drawn by a Southern man, a Virginian, George Mason, one of the truest patriots of his own or of any time.

The noblest part of our Constitutions is our Bill of Rights. Other parts deal with the functions and powers of government. They deal with the common man. They are the noblest part because they express the finest of human virtues—the virtue of self-control, and because they exhibit the restraint set by the whole people upon themselves in the simple interest of the rights of the single individual, the lone man, who in their name may defy the multitude and before whom, thus armed with the ma-

jesty of the law, all the minions of might and power must bow in respectful deference.

By and through the inbreeding qualities of this great elemental idea of the Common Law, the qualities of self-reliance, independence, initiative, resolution, courage and industry, the Anglo-Saxon has wrought his mighty train of achievement and attained a destiny of superiority and usefulness the Greek or Roman could never know. Out of it have come the noble principles of freedom which have bettered the world and made it a happier place in which to live. It is not irreverent to call it one of the providences of God, stretching dimly into a remote time, working through the mysterious ages, all for the elevation and progress of his children and to sustain them with its brooding care as they travel onward into the future.

If we ever abandon this fundamental idea of the Common Law, the law and justice of Anglo-Saxon history and development will have lost their foundation and will have taken on a new and different character. For a millennial period a new and different character might be better suited. But while the passions, the impulses, the frailties of mankind remain as they have been since creation's dawn, I cannot but believe that that system of law and justice which is peculiarly the outgrowth and reflection of the experience of a race through the long and tragic years of its life, will, in its full integrity, best breathe the spirit of that race, and developing as it develops, will continue to safeguard and serve it best.

Edmund Burke defined society as a contract between the great dead, the living and the unborn.

Let us, the living, always keep that part of the compact which expresses our obligation to the free principles of the Common Law. If we do, however much we may fail in other things, we will preserve the integrity of justice, and transmit the priceless thing of human liberty to those who shall come after us.

Nelson Phillips.

CHIEF JUSTICE, SUPREME COURT OF TEXAS.